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EXAMINER

BOECKMANN, JASON J

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/775,007

Applicant(s)

KWOK ET AL.

Examiner

Jason J. Boeckmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6 and 8-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 12/27/2005 have been fully considered but they are not persuasive.

In response to applicant's arguments concerning the nozzle of LeCompte, applicant argued that the nozzle of LeCompte is intended for removing coating material, not applying coating material as in the present invention. This argument is based on intended use, which is functional language and is not positively recited within the claims. Moreover, both LeCompte and the applicant's claimed invention discharge material and hence are similar devices.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In this case, motivation to combine LeCompte and Hollstein is to provide Hollstein's invention with a square nozzle in order to discharge an even coat of pulverulent spray from the dispenser.

***Drawings***

The drawings were received on 12/27/2005. These drawings are not applicable because reference number 28 that was objected in previous office action, is still not shown in the figures.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference number 28 referring to the lumen of delivery tube 14 is not shown in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The claim rejection regarding USC 112 second paragraph have been withdrawn due to applicant's amendment.

### ***Claim Objections***

Claims 1-18 are objected to because of the following informalities: The claim language is not consistent with the specification. For example, the terms first reducer section and first expander section in the claims (see claim 2 and 3) do not refer to the same reducer section and expander section as in the specification (see page 6, line 16). The same problem also arises with the second reducer section and second expander section of the claims (see claim 8, line 2). Appropriate correction is required.

Applicant refers to pages 2-4 in the specification titled "Disclosure of the Invention," which appears to be worded straight from the claims. There are no reference numbers within that section of the specification that refer to the figures and it is difficult to determine which expander and reducer section is which. Examiner notes that within the section titled "Detailed Description of the Illustrative Embodiments," the reference numbers are inconsistent from the claims as well as applicants Response to arguments filled on 12/27/2005.

In a more detailed example, In claim 2, the first expander section on line 2, seems to be referring to reference numeral 144, however, in the specification page 7, line 21, the first diverging section refers to reference numeral 26. Similarly, the in claim 3, the first reducer section seems to refer to reference numeral 142, however in the specification page 7, line 21, the first converging section refers to reference numeral 22.

Additionally, In claim 8, line 7, and claim 9, line7, the second reducer section seems to be referring to reference numeral 22, however, in the specification page 6, line 18, the second reducer section refers to reference numeral 42. Similarly, the in claim 8,

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line 9 and claim 9, line 7, the second expander section seems to refer to reference numeral 26, however in the specification page 6, line 18, the second expanding section refers to reference numeral 44. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by LeCompte (5,704,825).

LeCompte shows a dispenser (20) for dispensing pulverulent coating material including an opening (44) through which the pulverulent material is discharged and a conduit (40) through which the pulverulent material is transported from a source (column 3, lines 14-5), a first section of the conduit (40) adjacent to the opening (44) having a cross-section transverse to the direction of the flow of the pulverulent material through the first section, the cross-section being generally rectangular (figure 2). With respect to claim 12, the conduit (40) includes a first reducer section (38) and a first expander section (22) both being generally rectangular. With respect to claims 2, 3 and 5, the first section includes a first expander section (22) and the dispenser (20) includes a first reducer section (38) upstream from the first expander section (22), the first reducer section (38) includes a cross-section transverse to the direction of the flow of

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the pulverulent material, the cross-section being generally rectangular (figure 2). In regards to claims 4, 14, 15, and 17, as well as understood, the expander section (22) includes a first cross sectional area at the inlet end (24) and a second cross sectional area at the outlet (44), the cross sectional area increasing uniformly from the first cross sectional area (24) to the second (44). In regards to claims 6, 13 and 16, as well as understood, the reducer section (38) includes a third cross sectional area at the inlet end and a fourth cross sectional area at the outlet (24), the cross sectional area decreasing uniformly from the third cross sectional area to the fourth (24). In regards to claim 18, the transverse cross-sections of both the first reducer section (22) and first expander section (38) are rectangular (figure 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollstein et al (6,105,886) in view of LeCompte (5,704,825).

Hollstein et al shows a dispenser (10) for dispensing pulverulent coating material including a seal member (48), a first member (14) including a second reducer section (figure 2), including a lumen and a first feature (49), and a second member (11) including a second expander section (figure 2) including a lumen and a second feature (47). The second reducer section is provided in a first structural component (49) and the second expander section is provided in a second structural component (11), which is adapted to be selectively coupled to the first structural component. The dispenser includes a seal member (48) for sealing the coupling between the first and second structural components. In regards to claim 10, the second reducer section includes a second cross-section at an outlet end and the second expander section includes a third cross-section at the inlet end and the seal member provides a transition from the second cross-section to the third cross-section (figure 2). Hollstein et al does not show a first section of the conduit adjacent to the opening having a cross-section transverse to the direction of the flow of the pulverulent material through the first section, the cross-section being generally rectangular. However, LeCompte discloses a dispenser (20) for dispensing pulverulent coating material including an opening (44) through which the pulverulent material is discharged and a conduit (40) through which the pulverulent material is transported from a source (column 3, lines 14-5), a first section of the conduit (40) adjacent to the opening (44) having a cross-section transverse to the direction of



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the flow of the pulverulent material through the first section, the cross-section being generally rectangular (figure 2). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to substitute the first reducer and expander sections having a rectangular cross-section of LeCompte for the outlet device of Hollstein et al in order to discharge an even coat of pulverulent spray from the dispenser.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571) 272-2708. The examiner can normally be reached on 7:30 - 5:00 m-f, first Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JJB JJG 3/15/06



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